

Memorandum

Date: February 5, 2002
Telephone: (916) 653-0062

To: Robert A. Laurie, Presiding Member
Michal C. Moore, Associate Member

From: California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Jack W. Caswell, Project Manager

Subject: TESLA POWER PROJECT ISSUE IDENTIFICATION REPORT

Attached is the staff's Issue Identification Report. This report serves as a preliminary scoping document as it identifies the issues the Energy Commission staff believe will require careful attention and consideration. Energy Commission staff will identify the issues in this report at the Informational Hearing and Site Visit scheduled for February 19, 2002.

Part of this report deals with scheduling issues. The Energy Commission is reviewing the Tesla Power Project pursuant to a 12-month Application for Certification (AFC) process.

Attachments

cc: Proof of Service List
AFC Agency list

ISSUE IDENTIFICATION REPORT

TESLA POWER PROJECT

(01-AFC-21)

Table of Contents

TESLA POWER PROJECT ISSUE IDENTIFICATION REPORT.....	1
PROJECT DESCRIPTION.....	1
AIR QUALITY.....	2
BIOLOGICAL RESOURCES.....	3
LAND USE.....	3
RELIABILITY.....	4
SOCIOECONOMICS.....	4
SOIL AND WATER RESOURCES.....	4
SCHEDULING ISSUES.....	5

TESLA POWER PROJECT ISSUE IDENTIFICATION REPORT

This report has been prepared by the California Energy Commission staff to inform the Committee and all interested parties of the potential issues that have been identified in the case thus far. Issues are identified as a result of discussions with federal, state, and local agencies, and our review of the Tesla Power Project Application for Certification (AFC), Docket Number 01-AFC-21. This Issue Identification Report contains a project description, summary of potentially significant environmental issues, and a discussion of the proposed project schedule. The staff will address the status of potential issues and progress towards their resolution in periodic status reports to the Committee.

PROJECT DESCRIPTION

On October 12, 2001, Midway Power LLC (MPLLC), a Delaware limited liability company, filed an Application for Certification (AFC) for the Tesla Power Project (TPP). MPLLC is seeking approval from the California Energy Commission (Energy Commission) to construct and operate the Tesla Power Project. The site is located on a 60-acre portion of a 160-acre parcel, Assessor parcel No. 99B-7825-1-4 Section 30, Township 2S, Range 4E, in Alameda County. The site is approximately 0.5 miles north of the PG&E Tesla substation. The site will be accessed by the Midway Road bordering the eastside of the parcel. The project will be a nominal 1,120 MW electrical generating power plant with commercial operation planned for third quarter of 2004. The Tesla Power Project will consist of four natural gas fired generators and two steam turbine generators. Linear facilities consist of 0.8 miles of double-circuit 230-kV transmission line connected to the Tesla PG&E substation, a 24 inch 2.8 mile natural gas pipeline, and 1.7 mile water line constructed along the Midway Road. The schedule for review of this project has been determined to be twelve months starting on the December 5, 2001 business meeting.

POTENTIAL MAJOR ISSUES

This portion of the report contains a discussion of the potential issues the Energy Commission staff has identified to date. This report may not include all the significant issues that may arise during the case, as discovery is not yet complete, and other parties have not had an opportunity to identify their concerns. The identification of the potential issues contained in this report was based on our judgement of whether any of the following circumstances will occur:

- Significant impacts may result from the project which may be difficult to mitigate;
- The project as proposed may not comply with applicable laws, ordinances, regulations or standards (LORS);
- Conflicts may arise between the parties about the appropriate findings or conditions of certification for the Commission decision that could result in a delay to the schedule.

The following table lists all the subject areas evaluated and notes those areas where the critical or significant issues have been identified and if data requests have been requested. Even though an area is identified as having no significant issues, it does not mean that an issue will not arise related to the subject area. For example, disagreements regarding the appropriate conditions of certification may arise between staff and applicant that will require discussion at workshops or even subsequent hearings. However, we do not currently believe such an issue will have an impact on the case schedule or that resolution will be difficult.

Major Issue	Data Req.	Subject Area	Major Issue	Data Req.	Subject Area
Yes	Yes	Air Quality	No	No	Public Health
Yes	Yes	Biological Resources	Yes	No	Socioeconomics
No	Yes	Cultural Resources	No	Yes	Traffic & Transportation
Yes	Yes	Reliability/Efficiency	No	No	Transmission Safety
No	No	Facility Design	No	Yes	Transmission Sys. Eng.
No	Yes	Geological Resources	No	Yes	Visual
No	Yes	Hazardous Material	No	Yes	Waste Management
Yes	Yes	Land Use	Yes	Yes	Water & Soil
No	Yes	Noise	No	Yes	Worker safety

AIR QUALITY

There are three potentially critical air quality issues that may affect the timing and outcome of the licensing process for the Tesla Power Project. They include: 1) achieving requirements for the **best available control technology**; 2) **mitigating PM₁₀ impacts**; 3) **mitigating SO₂ impacts**.

BEST AVAILABLE CONTROL TECHNOLOGY

The U.S. Environmental Protection Agency recently identified new Best Available Control Technology (BACT) levels for natural gas combustion turbines. For nitrogen oxides and carbon monoxide, the AFC's proposal of 2.0 ppm NO_x and 6 ppm CO would be achieved on a 3-hour average basis. These levels disagree with the recent U.S. EPA guidance (which suggests a level of 2 ppm is achievable and demonstrated in practice for both pollutants, NO_x on a 1-hour average and CO on a 3-hour average). Staff anticipates further information from the applicant regarding the achievable levels of control and will request additional information to verify that the project will comply with current laws, ordinances, regulations, and standards (LORS).

MITIGATION OF PM₁₀ IMPACTS

The applicant proposes to mitigate increased emissions of air contaminants and comply with LORS by securing emission reduction credits (ERC) from existing sources. A complete package of proposed mitigation, especially for PM₁₀, has not yet been presented by the applicant. The package of offsets that have been acquired to date (as

of November 21, 2001) falls short of those required by Bay Area Air Quality Management District (BAAQMD) regulations. Furthermore, because the project will affect air quality in the San Joaquin Valley Air Basin, Energy Commission staff may require additional specific mitigation to ensure localized benefits to the area impacted directly by the Tesla project. The San Joaquin Valley Air Pollution Control District is anticipated to intervene in the case. Ultimately, the BAAQMD and the Energy Commission staff must agree on the offsets and mitigation proposed by the applicant. The limited availability of PM₁₀ credits may make project emissions difficult to mitigate.

MITIGATION OF SO₂ IMPACTS

The applicant is not required by BAAQMD regulations to provide sulfur dioxide (SO₂) offsets. However, sulfur oxides (SO_x) are precursors to PM₁₀, so it is staff's position that the project impacts from SO_x emissions must be mitigated to avoid additional PM₁₀ air quality impact.

BIOLOGICAL RESOURCES

The proposed project site is located immediately north of the Haera Wildlife Mitigation Bank which provides 562 acres of mitigation habitat for special status species, specifically, San Joaquin kit fox and burrowing owl (AFC Figure 5.3-1). Energy Commission Staff is concerned that the installation of Tesla, an industrial and permanent use on the proposed parcel may result in significant and unmitigable adverse impacts to the effectiveness, quality, connectivity, and overall mitigation value of the adjacent Haera Wildlife Mitigation Bank. Staff will review this issue with the US Fish and Wildlife Service and California Department of Fish and Game. Staff has prepared data requests for additional detailed biological analysis of the other potential project locations described in the alternatives section of the AFC.

LAND USE

MITIGATION FOR CONVERSION OF AGRICULTURAL LAND TO A NON-AGRICULTURAL USE

The applicant has been requested to complete a California Agricultural Land Evaluation and Site Assessment (LESA) prepared by the Department of Conservation for the project in order to determine the level of significance under CEQA and/or provide mitigation for the conversion of the agricultural land caused by the power plant. It is unclear to what extent mitigation will be required.

PROJECT COMPATIBILITY AND CONSISTENCY WITH ALAMEDA COUNTY GENERAL PLAN, ZONING ORDINANCE & WILLIAMSON ACT CONTRACT

Staff has asked the applicant to secure a letter from the County of Alameda addressing the compatibility of this project with the East County Area Plan (ECAP), the Alameda County voter approved Measure D and the executed Williamson Act contract.

The Williamson Act contract executed on the subject property does not allow for power plant development. Staff recommends that the applicant either file a request for a partial recession of Williamson Act Contract No. 72-26427 or a cancellation of the Contract No. 72-26427 with the County of Alameda.

The Alameda County Board of Supervisors is charged with the enforcement of Measure D and the Williamson Act contract. Several of the actions involving the Tesla project will require policy direction and/or interpretation that will go beyond county planning staff involvement. A project consistency determination by the Board of Supervisors will be necessary to resolve these issues.

RELIABILITY

This project is proposed as a combined cycle power plant and water supply is critical for the reliable operation of its various components. It is not confirmed whether the water supply proposed by the applicant is actually available. (refer to **Water Resources** issue related to the applicant's proposed water supply system for more information). Staff is concerned about the reliability of water supply system for the plant operation, and the availability of the critical power generating components whose operation depends on this water supply. Therefore, staff needs assurance, from the applicant, about the availability and reliability of the water supply system before it can conclude that the project will be expected to achieve an overall availability factor in the range of 92 to 96 percent, as designated in the AFC (TPP 2001a, AFC §§ 1.6, 3.4.2, 4.3.1).

Additionally, an inadequate backup water supply has been proposed. A storage tank proposed for the project will contain enough water to operate the plant for 24 hours. If the water supply is interrupted beyond the 24 hour limit the plant will not be able to operate.

SOCIOECONOMICS

Based on Census 2000, the minority population percentage within a six-mile radius of the proposed power plant is less than 50 percent. However, there are a number of census blocks with greater than 50 percent minority population within that radius. Therefore, staff will conduct a focused environmental justice evaluation to determine whether a significant, adverse environmental impact affects the population in these census blocks. If a significant impact is identified, staff will recommend appropriate local mitigation. If the impact can't be mitigated to less than significant, staff will determine if the impact disproportionately affects the minority population.

SOIL AND WATER RESOURCES

The project has proposed a complicated system for the acquisition and exchange of fresh water to supply the power plant. These contract exchanges and acquisitions have not been accomplished at this time. The water exchanges must have an environmental

review. They must be assessed for environmental impacts, and approved by a responsible agency. In addition, the potential to supply recycled water has not been fully explored and analyzed consistent with Water Code Section 13550, comparing cost and potential direct and cumulative impacts of the alternative sources of supply with the proposed water supply. Additionally, until the individual environmental reviews are completed, staff cannot determine if the alternatives sources are considered adequate, reliable and consistent with LORS.

Staff will require the applicant to provided a schedule for the completion of both the environmental reviews, and contract exchanges between the Rosedale-Rio Bravo Water Storage District, Buena Vista Water Storage District, Kern County Water District, Alameda County Zone 7 Water District, and the Department of Water Resources.

The project schedule may be affected by the ability of the applicant to deliver the required documents.

SCHEDULING ISSUES

Staff has begun its analyses of the project and is currently in the discovery phase, as well as its assessment of other environmental and engineering aspects of the applicant's proposal.

Following is staff's proposed 12-month schedule for key events of the project. The ability of staff to be expeditious in meeting this schedule will depend on the applicant's timely response to: staff's data requests, the filing of Determination of Compliance from the air district, and other factors not yet discovered.

Energy Commission Staff's Proposed Schedule for Tesla Power Project

(2001) Day -45	October 12 (Friday)	Application filed
(2002) Day -1	January 8 (Tuesday)	Staff recommendation on DA
(2002) Day 0	January 9 (Wednesday)	CEC determines Data Adequacy
Day 27	February 5 (Friday)	Staff files Data Requests
Day 30	February 8 (Friday)	Staff files Issue Identification Report
Day 41	February 19 (Tuesday)	Information Hearing & Site Visit
Day 55	March 5 (Tuesday)	Applicant files data responses (round 1)
Day 70	March 20 (Wednesday)	Workshop on Issues, & Data Responses
Day 90	April 9 (Tuesday)	Staff files data requests round 2 (if necessary)
Day 118	May 7 (Tuesday)	Applicant provides data responses (round 2)
Day 120	May 9 (Thursday)	Local, state, federal, agencies file Determinations
Day 128	May 17 (Monday)	2nd Workshop on Issues, & Data Responses
Day 149	June 7 (Friday)	Preliminary Staff Assessment Issued
Day 180	July 9 (Tuesday)	Local, state, federal, file Final Determinations.
Day 170-180	July 9 (Tuesday)	Preliminary Staff Assessment Workshop
Day 210	August 7 (Wednesday)	Final Staff Assessment
Day 233-245	September 9 (Monday)	Evidentiary Hearing
Day 301	November 8 (Friday)	PMPD
Day 332	December 9 (Monday)	Hearing on PMPD
Day 348	December 24 (Tuesday)	Revised PMPD
(2003) Day 364	January 8 (Wednesday)	Decision